

WEST CHICAGO INTERGOVERNMENTAL FORUM

June 26, 2009
Meeting Minutes

ATTENDEES

Barbara Magel, Counsel for Local Communities
John Wills, WBK Engineering, Local Communities
Jamie Geils, WBK Engineering, Local Communities
Jim Kleinwachter, Conservation Foundation
John Coakley, City of Warrenville
Tom Williams, IEPA
Chuck Grigalauski, IEPA
Gary McCandless, IEMA/DNS
Kelly Grahn, IEMA/DNS
Gerald Karr, Illinois Attorney General's Office
Mary Fleming, DuPage County State's Attorney's Office
Mark Krippel, Tronox
Tim Fischer, U.S. EPA, Superfund
David Seely, U.S. EPA, Superfund

GENERAL TOPICS

The meeting began with an update on the January 11, 2009, Tronox Chapter 11 bankruptcy filing. Tim Fischer said that he had checked the Tronox.com website the day before and there did not seem to be any update on the bankruptcy proceedings. Tim asked if Mark Krippel had any update beyond what was on the Tronox.com website. Mark said that there had been a lot of orders and stipulations posted, but that there was not much new to report. John Wills added that there was now a deadline for submitting Proof of Claims, and that date is August 12, 2009. Barb Magel said that the City of Warrenville and the City of West Chicago had already filed Proof of Claim motions, and that the other three local community organizations would have to make a decision whether or not to move forward with a claim. John said that the DuPage County Forest Preserve District would definitely be filing a Proof of Claim, but he was not sure about the County itself.

Tim reported that in May 2009, EPA had filed a Complaint in Intervention in a lawsuit brought by Tronox against Kerr-McGee and Anadarko. Tim said that EPA is alleging that Kerr-McGee and Anadarko spun off Tronox fraudulently by stripping the company of all of its valuable assets and setting Tronox up with all of Kerr-McGee's environmental liability. Tim reported that the suit is ongoing and that EPA is cooperating with Tronox in the suit. The court has declared that Discovery began on June 22, and the parties will be moving forward preparing for Discovery requests and responses.

Tim provided an opportunity for further questions/comments on the bankruptcy, and there were none.

REED-KEPPLER PARK SITE

Tim said that nothing had changed since the April Forum meeting with respect to Reed-Keppler Park. EPA is awaiting a concurrence letter from Illinois EPA to move forward with the proposed NPL deletion of the site. Tom Williams said he would look into the status of the letter and report back.

Tim reiterated that EPA plans to utilize the “Direct Final Deletion” process for delisting Reed-Keppler Park. EPA can use this more streamlined approach in situations where it does not think the proposal will be controversial or be met with stakeholder resistance. Tim said that under Direct Final Deletion, EPA proposes the deletion and announces that, barring any comments or concerns expressing opposition to the proposal, it will become final automatically at the end of 30 days.

KRESS CREEK/WEST BRANCH DUPAGE RIVER SITE

Documents

Tim said that EPA had recently approved the final version of the Final Completion Report for Reaches 5C and 5D. Tim said that he would be placing this document in the Information Repositories for the Kress Creek site.

Reaches 5C and 5D are now in the Maintenance and Monitoring period for restoration.

Cleanup Progress

Tim provided an update on cleanup activities for the creek and river.

Reaches 5D and 5E (near River Oaks subdivision and Emerald Green): Tronox has completed quite a bit of repair work to replace/repair the protective measures put in place to protect plantings. Tronox also filled in some low areas with topsoil and regraded restored areas to match the “as-built” conditions. Two willow trees were replanted due to damage from beavers.

Reach 6 (Williams Road to Butterfield Road): Tim reported that Tronox has been working on planting in the constructed wetland area on the Cenacle property. Tim said that the planting of wetland plugs was now complete. As of earlier this week, there were still some trees and shrubs being planted on the Cenacle property as well.

Reach 7 (Butterfield Rd to the Warrenville Grove Dam): Tim reminded everyone that at the previous Forum meeting it was reported that Tronox did not have funding in hand to

conduct the Reach 7 work this year. Tim said that he and Mary Fulghum had been working hard over the last couple of months to try to reach some agreement subject to the bankruptcy court that would allow for some amount of work in Reach 7 this summer. Tim said that as weeks passed into early June, it became increasingly clear that Tronox would not be able to complete all of Reach 7 this summer, so alternate approaches were considered. Tim said that for the last few weeks, EPA had been pursuing the possibility of conducting some subset of the Reach 7 \$20 million scope. Tim said that he and Mary had briefed many people in EPA headquarters and participated in many conference calls with management and attorneys. Tim said that EPA had not given up hope of conducting Reach 7 work this year, but that Monday (June 29) was the self-assigned “go/no go” date for completing work. Tim said that if no agreement were in place by Monday, there would likely be no work in Reach 7 this summer. Tim mentioned that Mary was not at the Forum meeting because she was back at the office working the phones and email to try to get that agreement in place.

John Wills said that he would like to mention that the local communities, including DuPage County Administrator Tom Kuclich, Forest Preserve District Director of Natural Resources John Oldenburg, Jim Healey from DuPage County, and other DuPage County lobbyists met with the Department of Justice, Senator Durbin’s office, Congressman Roskam’s office and Congressman Foster’s office. John said that the Kress Creek site had been well advocated because everyone they spoke to in Washington, DC knew about the site and the bankruptcy issue. John said that they all traveled to Washington, DC to present a personal face and story to go along with what everyone was hearing about the site, and to let them know that the Kress Creek site was more than just a vacant barbed-wire fenced site as so many people picture Superfund sites. John said that the Congressmen indicated that they view the cleanup as a responsible party issue, and not a federal government problem. The local communities voiced their understanding of this, but also communicated their concern over having the West Branch cleaned up as soon as possible with a secure and predictable source of funding. John said that without continuous reliable funding, the situation could become a problem for the cleanup contractors, like Arcadis, who have to devote resources to maintain a presence on the project.

Finally, Tim said that EPA had received the draft Work Plan for Reach 7 in early May and had provided a few comments on the document. Tim said that with the incorporation of the comments, EPA had approved the Work Plan for Reach 7 so that work could proceed if funding is obtained.

Tim provided an opportunity for questions following his updates. Chuck Grigalauski asked how the final decision on cleanup in Reach 7 would be made and under what mechanism it would be funded. Tim said that EPA is trying to negotiate a deal with Tronox that would have to be approved by other creditors and approved by the bankruptcy court. Under the court-approved agreement, Tronox would get approval to move forward with spending money to get contracts in place and start work. Chuck asked what the venue was for the bankruptcy proceedings. Barb Magel said that the bankruptcy is being handled in the Southern District of New York. Chuck asked if there

was some website where further information could be obtained regarding the bankruptcy. Gerry Karr said that the docket for the bankruptcy could be found online and that he would forward the information to Chuck and anyone else who wanted it.

RESIDENTIAL AREAS SITE

Recap of “old cleanup residual” issue: Kerr-McGee conducted a cleanup of 100+ residential properties in West Chicago in the mid-1980s. The issue is whether there is potentially any low-level residual contamination that was left behind at the bottom of the old excavation in the mid-1980s that was then covered with clean backfill soil. If such residual low-level contamination exists, it would probably be just slightly above EPA’s current cleanup standard, and the clean soil that was placed over it may have prevented EPA from detecting it during the Superfund investigation and cleanup that started in the mid-1990s. This issue was raised and EPA is now working to resolve it. This issue affects only those particular properties that were part of the mid-1980s cleanup. Properties that were not part of the 1980s cleanup are not affected by this issue.

Current Activities

Since the last Forum meeting, EPA continued to pursue signed access agreements to allow entry to the properties to conduct additional testing, investigation work including gamma walkover surveys, installation of soil borings with subsequent gamma logging, and soil sampling. David stated that he also have been reviewing the data packages from last year, reviewing historical 1980s cleanup files to determine if additional sampling is necessary, and responded to community concerns.

In 2008, 32 properties were identified as requiring additional testing, of which we were able to secure access to 23 of them. Field work was completed on twenty of these properties in 2008 and the work on three of these properties carried over into 2009 due to concerns about vegetation or potential damage to utilities. Of the nine remaining properties, EPA was able to gain access as of May 15th. The challenges we had to overcome to gain access were language barriers and complications due to real estate transfers and/or locating owners of rental properties. One additional property was identified in 2009 as requiring additional testing and access was granted on this property on April 30th. Currently, EPA has been granted access to all 33 properties requiring additional sampling pursuant to our historical file reviews. David stated that he continues to review historical files to determine if more properties require additional testing. However, David stated he has been directed to focus his attention on the Tronox-owned properties to determine the scope of any required efforts by August 12th due to the lawsuit noted above.

In summarizing the field work, 13 properties are involved in the fieldwork this year. Gamma walkover surveys have been completed at all of the properties and the results indicate that some elevated areas potentially exist and require soil borings. Elevated gamma was found at seven properties. However, four of the seven properties only had a

handful of data points which exceed the screening criteria. Since data is continually being collected as a meter is walked across the property, the elevated points represent less than 1% of the total elevated data points. The other three properties represented 5%, 28%, and 66% of the total elevated gamma points, the highest being a vacant lot owned by Tronox. David noted that these elevated gamma points may not be due to thorium contamination and discuss one property where elevated gamma was found but upon a follow-up evaluation, the elevated gamma was determined to be associated with a stack of bricks. Once the bricks were removed the property was below the screening levels. The gamma results were evaluated along with the soil boring plan for each property and if necessary, additional borings were located in the areas of elevated gamma. If the gamma results were correlated to thorium concentrations, the elevated gamma results ranged as high as 22 pCi/g.

Soil borings were installed at all 13 properties at areas of concern. A down-hole gamma scan was then conducted and if elevated results were found in an individual borehole, additional borings, known as “step-outs” were installed in all four directions to determine the footprint of the contamination. Soil samples were then collected at all elevated vertical intervals that exceeded the screening criterion which was correlated to a 7.2 pCi/g standard. A total of 783 boreholes were initially installed, of those 9 boreholes at five properties have elevated gamma levels. A total of ten cores were installed and soil samples were taken from the elevated vertical intervals for laboratory analyses. The lab results are not yet available. At this point, the subsurface soil sampling efforts have been completed at all of the properties. Surface soil sampling plan designs have just been completed for all the properties and the sample collection will be conducted next week. The design plans require a total of 36 surface soil samples to be collected. David explained that the boreholes have been restored as of last week. David inquired if there were any questions on the field efforts and there were none.

David then proceeded to explain that he continued to respond to community concerns or inquiries, one of which was referred to him by the City of West Chicago. Most concerns have been real estate related. However, two of the concerns raised were regarding requests for basement sampling. These two requests were forwarded to IEMA and the sampling has been completed.

David stated he has been reviewing the old data packages so that EPA can send them out to the property owners. During the review, David identified what appeared to be gaps in the gamma walkover survey results figures. He stated that this may be explained by the lack of GPS coverage or some other surface obstructions. David has instructed his field team to audit each property to determine why we do not have results for the entire property and to document the outcome in the data packages. If no data exist, walkover surveys would be conducted in these areas. David then inquired if there were any questions and there were none.

OTHER ISSUES

Update on NOAA Grant Projects

John Wills said that Williams Architects has completed the final design for the Urban Stream Research Center building and site plan on the Cenacle property. The building will be located north of the old Cenacle building across Springbrook and backing up to Blackwell Forest Preserve. The building will be accessed from the Blackwell Forest Preserve parking lot.

The Warrenville Dam removal project design is complete, and permitting packages are almost complete. John said that he thinks the historical structure issues have been addressed and the project is basically awaiting the completion of the Reach 7 cleanup. John said that both projects are on the Forest Preserve District website if anyone needs further information, or one can contact John Wills or John Oldenburg at the Forest Preserve District directly.

NEXT FORUM MEETING

The next meeting of the West Chicago Intergovernmental Forum is scheduled for **Friday, August 21, 2009, at 10 a.m.** in West Chicago City Council Chambers, West Chicago.